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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,331	10/23/2001	Thomas J. Watson	00-0895.15/US	3864
22922	7590	09/14/2004	EXAMINER	
REINHART BOERNER VAN DEUREN S.C. ATTN: LINDA GABRIEL, DOCKET COORDINATOR 1000 NORTH WATER STREET SUITE 2100 MILWAUKEE, WI 53202			KEASEL, ERIC S	
			ART UNIT	PAPER NUMBER
			3754	
DATE MAILED: 09/14/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,331

Applicant(s)

WATSON, THOMAS J.

Examiner

Eric Keasel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 25, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>Feb 26, Nov 20 & 25/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Nonpublication Request

1. Applicant's nonpublication request under 35 USC 122 (certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months from filing) is acknowledged. However, the invention disclosed in this application is the subject of WO 2002/061955, EP 1330882, and AU 2002249880 and there is no notification of the foreign (or multilateral) filings nor is there a rescission of the nonpublication request in the file.

Accordingly the application will be held abandoned (see 35 USC 122(b)(2)(B)(iii)) unless applicant can produce proof of the notification of foreign filing within 45 days of the filing of the foreign applications. If applicant can not provide such proof, applicant should file a petition under 37 CFR 1.137(b)/(f).

Inventorship

2. In view of the papers filed Nov 29, 2002, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Wade C. Patterson.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Skell et al. (WO99/50172).

Skell et al. disclose a system for filtering reflected infrared signals comprising an IR receiving device having a detection range and an output, said output indicative of at least one IR detection value; and control logic configured to receive a plurality of IR detection values, wherein the control logic compares said at least one IR detection value with an activation threshold to detect an object within said detection range, said control logic further configured to detect motion; said system further comprising a fluid-dispensing device, wherein said at least one IR detection value is a plurality of IR detection values and wherein said control logic is configured to activate said fluid-dispensing device when one of said plurality of IR detection values exceeds the activation threshold.; wherein said control logic is further configured to execute a timer for a predetermined time interval when said fluid-dispensing device is activated, and to deactivate the fluid-dispensing device when the timer expires or when said one IR detection value is less than the activation threshold; wherein said control logic is configured to detect an increase in at least one of said plurality of IR detection values and activate said fluid-dispensing device; further comprising a transmitting device that periodically emits pulses, said IR receiving device positioned to detect reflections of said pulses; and wherein said control logic

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detects motion by calculating the difference between consecutive IR detection values, and comparing said difference to the activation threshold.

Skell et al. also disclose the associated method for filtering reflected infrared signals comprising the steps of comparing an IR detection value to an activation threshold; detecting motion within a detection range, and controlling a fluid dispensing device based on said comparing and detecting steps; said comparing step further comprising the steps of: emitting an IR pulse from a transmitting device, and detecting a reflection of the IR pulse with a receiving device; wherein said controlling step includes activating the fluid-dispensing device when the IR detection value exceeds the activation threshold; further comprising the steps of: setting a timer for a predetermined interval, detecting motion during the predetermined interval, and deactivating the fluid-dispensing device when the predetermined time interval expires or when the IR detection level is less than the activation threshold; and further comprising the steps of: sensing IR detection values; and activating the fluid-dispensing device when an increase in IR detection is sensed.

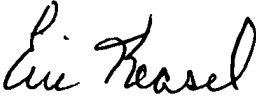
Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (703) 308-6260. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 9 SEP 2004
Eric Keasel
Patent Examiner
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